



09-07-07

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**IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE**

Serial No. : 09/925,673
Applicants : Masakatsu KANEKO et al.
Filed : August 9, 2001
For : NOVEL NUCLEOSIDE AND
OLIGONUCLEOTIDE ANALOGUES
Art Unit : 1623
Examiner : Ganapathy KRISHNAN
Docket No. : 01376CIP/HG
Customer No.: 01933
Confirm. No.: 4630

**APPLICATION FOR PATENT TERM ADJUSTMENT
INCLUDING REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT INDICATED IN
NOTICE OF ALLOWANCE (37 CFR §1.705)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

MAIL STOP PETITION

S I R :

1. This is a request for reconsideration of the patent term adjustment of 195 days indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) that was attached to the Notice of Allowance mailed July 26, 2007. It is respectfully requested that applicants be afforded a patent term adjustment of 473 days.

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P.O. Box 1450
Alexandria, VA 22313-1450

Dorothy DeFrancesco
Dorothy DeFrancesco

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filed, and the necessary petition
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this as a Petition for the requisite
extension of time, and to the extent
not tendered by check attached hereto,
authorization to charge the extension
fee, or any other fee required in
connection with this Paper to
Account No. 06-1378.

09/10/2007 HVUONG2 00000015 09925673

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2. The issue fee transmittal (Form PTOL-85) attached to the July 26, 2007 Notice of Allowance has not yet been filed in the USPTO.

3. Applicants submit herewith a "Statement of the Correct Patent Term Adjustment: Basis(es) Under 37 CFR §1.702 For the Adjustment - Part B." (37 C.F.R. §1.705(b)(2)(i) and (ii)).

4. Any patent granted on this application (37 C.F.R. §1.705(b)(2)(iii)) is not subject to a terminal disclaimer.


5. As to any circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified patent application as set forth in §1.704 (37 C.F.R. §1.705(b)(2)(iv): there was none (37 C.F.R. §1.705(b)(2)(iv)(B)).

6. The fee set forth in §1.18(e) (\$200), required by 37 C.F.R. 1.705(b)(1), is paid as follows:

Attached is a Form PTO-2038 in the amount of \$200.

To the extent not tendered by the Form PTO-2038 attached hereto, authorization is given to charge any additional fees to Deposit Account No. 06-1378.

Respectfully submitted,



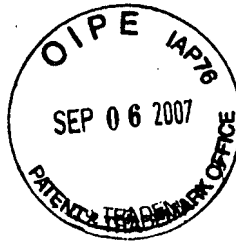
RICHARD S. BARTH
REG. NO. 28,180

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RSB/ddf

Encs.: (1) Statement of the Correct Patent Term Adjustment:
Basis(es) Under §1.705(b)(2)(i) and (ii)

(2) Form PTO-2038 in the amount of \$200

**IN THE UNITED STATES PATENT
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fee, or any other fee required in
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Account No. 06-1378.

**STATEMENT OF THE CORRECT PATENT TERM
ADJUSTMENT: BASIS(ES) UNDER 37 C.F.R. § 1.702
FOR THE ADJUSTMENT (37 C.F.R. §1.705(b)(2)(i) AND (ii))**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

MAIL STOP PETITION

S I R :

1. This statement is being submitted in support of the
"APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR
RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF
ALLOWANCE (37 CFR §1.705)" to which this statement is attached.

2. 37 C.F.R. §1.705(b)(2)(i)

The correct patent term adjustment and the bases under §1.702 for the adjustment are as follows:

The patent term adjustment set forth on the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) that was attached to the Notice of Allowance mailed July 26, 2007 is 195 days. It is respectfully submitted that this determination of 195 days is in error for the following reasons.

(a) In reply to the Corrected Notice of Allowance and Fee(s) Due mailed April 5, 2005 (which required that the Issue Fee be paid by July 5, 2005), the Issue Fee for the above-identified application was paid on June 27, 2005 (see the enclosed copy of the postcard sent with the Form PTOL-85).

The application was withdrawn from issue by the USPTO in a paper entitled NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(c) mailed June 22, 2006.

An Office Action was mailed on August 1, 2006.

It is noted that applicants filed an INFORMATION DISCLOSURE STATEMENT on July 11, 2006.

(b) It is respectfully requested that applicants be afforded a 278 USPTO delay from four months after the payment of the Issue Fee on June 27, 2005 to the mailing date of the Office Action on August 1, 2006.

Taking the above into consideration, the correct patent term adjustment under 37 CFR 1.702 is 473 days (195 days + 278 days).

3. 37 CFR §1.705(b)(2)(ii)

The relevant dates for which an adjustment is sought and the adjustment as specified in §1.703(f) to which the patent is entitled, is as follows:

Adjustment sought is for the following dates:

Issue Fee Paid: June 27, 2005

Office Action Mailed: August 1, 2006.

The Corrected Notice of Allowance and Fee(s) mailed April 5, 2005 required that the Issue Fee be paid by July 5, 2005. In reply thereto, the Issue Fee was paid on June 27, 2005.

The USPTO failed to respond within four months of the aforesaid payment of the Issue Fee on June 27, 2005, as required by 37 CFR 1.702(a)(2) ("Respond to a reply under 35 USC 132..."). The payment of the Issue Fee on June 27, 2005 is submitted to be a "requirement" under 35 USC 132(a). The USPTO did not respond to the aforesaid June 27, 2005 payment of the Issue Fee until the mailing of the Office Action on August 1, 2006.

Respectfully submitted,



RICHARD S. BARTH
REG. NO. 28,180

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Fax No. (212) 319-5101
E-Mail Address: BARTH@FHGC-LAW.COM
RSB/ddf

Enc.: copy of postcard date stamped June 27, 2005

RECEIPT ACKNOWLEDGED:

LETTER TRANSMITTING ISSUE FEE, PART B -
FEE(S) TRANSMITTAL PTOL-85, Check No.
95942 for \$1715.00 (Issue Fee \$1400;
Publication Fee \$300; 5 patent
copies \$15)- June 27, 2005

01376CIP/HG SN 09/925,673 KANEKO et al

RSB/fs Due JULY 5, 2005 EXPRESS MAIL
LABEL NO. EV 701316875 US DATE OF DEPOSIT
JUNE 27, 2005

